

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1-5 and 7 were rejected under 35 U.S.C. 112, first paragraph as not being enabled by the specification. Claim 7 has been cancelled by amendment herein. The rejection as it applies to the remaining claims is respectfully traversed for the following reasons.

Regarding claims 1-3, the Examiner states that the specification does not adequately describe the step of “selectively operating the sealed system to raise a temperature of the evaporator while the defrost heater is inactivated.” Applicant respectfully disagrees. As acknowledged by the Examiner, the specification describes that the controller is paused for a period of time (66) to allow for evaporation of refrigerant (paragraph [0027]). In the following paragraph, the specification further explains that the defrost heater (14) is powered after the thermostat (18) re-closes at time 68 (paragraph [0028]). As previously mentioned, the closing of the thermostat (18) causes the compressor to run (see paragraph [0025]). Thus, one of ordinary skill in the art would easily understand that the thermostat (18) must rise above a set point in order to close, causing the compressor to run in order to provide cooling. Thus, during the period of time (66) during which the controller pauses, the temperature in the evaporator decreases as refrigerant evaporates. However, the defrost thermostat remains off *until the temperature rises enough to close the thermostat (18)*. Moreover, even when the thermostat (18) closes, the controller keeps the compressor from running. Thus, as disclosed, the compressor (part of a sealed system) is selectively operated to raise the temperature of the evaporator while the defrost heater is inactivated, as claimed.

Regarding claims 4, 5 and 7, the Examiner states that the specification does not adequately

describe the step of "raising the temperature of the appliance while the defrost heater is inactivated." As explained above, once evaporation is completed, the temperature of the appliance will begin to rise until the thermostat (15) recluses when it senses that its set point temperature has been reached. Thus, the specification clearly discloses raising the temperature of the appliance while the defrost heater is inactive. Put another way, if the temperature of the appliance never rises to the thermostat's set point, the defrost heater will never be activated, since the thermostat will not close.

For all of the above reasons, the Examiner is respectfully requested to withdraw the rejection and reconsider the claims.

Claim 6 was rejected under 35 U.S.C. 102(b) over Szynal et al. Claim 6 has been cancelled by amendment herein, thereby rendering the rejection moot.


In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33301US3.

Respectfully submitted,

PEARNE & GORDON LLP

By:


Aaron A. Fishman, Reg. No. 44682

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: July 28, 2004